

(3) Interoffice Transport

(i) Common Transport. An interoffice transmission path (including the equipment and facilities) shared with the incumbent LEC and/or other carriers (typically used for switch to switch transport within the ILEC's network)

(ii) Dedicated Transport. An interoffice transmission path (including the equipment and facilities) dedicated to a single carrier.

(iii) Tandem Switching. The establishment of a communications path between two switching offices through a third (the tandem) switch.

(iv) Requesting carriers may obtain interoffice transport on a shared basis between any two ILEC wire centers, or may combine dedicated transport with common transport at an intermediate point of switching.

(4) Local operator systems: systems that enable the incumbent local exchange carrier to provide special types of calls and services (e.g., operator dialed calls, calling card verification and billing, collect and billed to third party calls, and interruption/verification services) that require manual or automated handling through systems that are outside the local switch

(5) Local Directory Assistance. The equipment used to store customer specific information and to provide assistance functions to obtain customer listing data.

(6) Digital Cross-connect System. An element that provides automated cross-connection, facility grooming, bridging, point-to-multipoint connections, broadcast and automated facility test capabilities.

(7) Signaling Transfer Points: A network element that enables the exchange of SS7 messages among switching elements and database elements.

(8) **Signaling Link:** Dedicated links used to transmit SS7 signaling message among interconnecting carrier designated points of interconnection.

(9) **SCPs/databases.** A node in the signaling network to which informational requests for service handling, such as routing, are directed and processed in real time.

Pricing of Unbundled Elements

(d) Pricing of Unbundled Network Elements

(1) Unbundled network elements shall be priced at a rate equal to their TSLRIC, calculated as provided in Section XX.209(e).

(2) Rates calculated pursuant to the model set forth in Appendix A to the Commission's August ---, 1996 Order in CC Docket No. 96-98 [the Hatfield model] shall be the presumptive rate ceilings for unbundled network elements. State commissions may find reasonable the price for an unbundled element lower than the presumptive ceiling. State commissions may find reasonable any price higher than the presumptive rate ceiling only if based on a compelling demonstration by an incumbent local exchange carrier that the proposed rate is priced at TSLRIC.

(e) Charges for unbundled local switching capacity shall recover all non-volume sensitive capacity costs in a rate per line, with no separate charge for switch functions used to provide vertical features. Incumbent local exchange carriers may recover volume sensitive costs through TSLRIC charges for usage.

Operational Support

(f) Incumbent local exchange carriers must provide automated, nondiscriminatory operational support mechanisms for each unbundled element pursuant to the requirements set forth in Section XX.208, and must implement any additional mechanisms necessary for each unbundled element. These systems must enable competing carriers to employ unbundled elements to provide service on a basis that is comparable to the manner in which the incumbent LEC provides service over those elements.

XX.203 RESALE

General Provisions

(a) Each incumbent local exchange carrier shall provide at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers. Services that are made available on a packaged basis to retail customers shall also be made available for resale as separate, discrete wholesale services, in addition to being made available as a package of services for resale at wholesale rates. An ILEC may not require requesting carriers to follow procedures for obtaining access to wholesale services that are not directly related to and necessary for ordering and provisioning of service.

(b) Telecommunications services incumbent local exchange carriers must offer for resale include, but are not limited to: all business services; residential services; flat-rated services, including 1FB and 1FR; measured services, including 1MB and 1MR; promotional and discounted services; CLASS and other custom calling features (such as Caller ID); Centrex; ISDN; Lifeline services; special, dedicated and switched access (to the extent offered to non-carriers); telecommunications relay service; public access line service; 911 services; individual customer basis (ICB) services; contract services, and non-tariffed (or detariffed) telecommunications services; 1MB, 1MR, 1FB, 1FR; call blocking services; ANI over T-1; data services; calling card, directory services, operator services; intraLATA toll; semi-public coin telephone service; foreign exchange services; and video dialtone.

(c) Incumbent local exchange carriers shall not deny resale for any of the following offerings: promotions, optional calling plans, bundled offerings, discounted offerings, and time-limited offerings.

(d) If an incumbent local exchange carrier has withdrawn a telecommunications service from general availability, but is providing the service to existing customers, i.e., a "grandfathered" service, the incumbent local exchange carrier must make such service available for resale to existing and new customers at wholesale rates.

(e) An incumbent local exchange carrier shall not impose any restriction, limitation or condition on resale of any service, except that a state commission may, pursuant to the exception set forth in 47 U.S.C. § 251(c)(4)(B), restrict the resale of services to the same category of subscribers who obtain the service at retail if: (1) the State commission determines that the retail service is priced below its total service long run incremental cost (TSLRIC); or (2) the incumbent local exchange carrier providing the retail service receives an explicit subsidy designed to benefit a limited and specifically defined category of subscribers, e.g., Lifeline service.

(f) An ILEC may not deny service for resale based on any limitation on its capacity.

(g) An ILEC may not deny service for resale based on grounds that the retail service is priced below cost, except to the extent permitted pursuant to subsection (e).

Wholesale Pricing

(h) Each incumbent local exchange carrier shall establish wholesale rates for each of its telecommunications service offerings to subscribers who are not telecommunications carriers. Upon introduction of a new telecommunications service offering, the ILEC shall also simultaneously establish a wholesale rate for that offering. With respect to existing service offerings, any change in the retail rate or terms and conditions thereof must be reflected simultaneously in the wholesale rate and terms and conditions of the corresponding wholesale offering. Incumbent local exchange carriers must subtract from retail rates the directly identified retail-related costs associated with those retail services as well as other avoided costs.

(i) In calculating wholesale rates, each incumbent local exchange carrier shall exclude the avoided costs identified in Section XX.203(j) and (l) from the retail rates charged to subscribers. The "retail rates charged to subscribers" shall reflect any applicable discounts, regardless of amount, type or duration, including without limitation, term, volume, geographical, time-of-day, and promotional discounts.

(j) For purposes of determining the avoided costs applicable to wholesale services, direct and indirect costs attributable to the incumbent local exchange carrier's retail operations and direct and indirect costs that should not reasonably be incurred by the incumbent local exchange carrier's retail operations and direct and indirect costs that should not reasonably be incurred by the incumbent local exchange carrier in its provision of the wholesale service, including the appropriate portion of share, common and general overhead costs, shall be considered avoided costs.

(k) To assist States in their determinations of avoided costs, the avoided cost factors set forth in Appendix B of the Commission's August ___, 1996 Order in CC Docket No. 96-98 will be presumed to comply with the Act. [The appendix would incorporate the methodology set forth in Appendix E of AT&T's May 30 reply comments in CC Docket No. 96-98.] States may approve a greater wholesale factor, but may select a smaller factor only if based upon a showing by the proponent that the factor better satisfies the requirements specified in these rules. In any such proceeding, the incumbent local exchange carrier shall bear the burden of establishing the validity of such smaller wholesale factor.

(l) All ILEC costs associated with the following Uniform System of Accounts (USOA) categories should be excluded as avoided costs: Uncollectibles; Marketing Expense; Customer Service Expense; and Billing Expense. That portion of the following accounts which is directly associated with the ILEC's retail operations also should be considered avoided cost: Network Support Expense; Operator Systems Expense (if appropriate); Testing Expense; Plant Operations Administration Expense; Call Completion Services; and Number Services. Further, the portion of the following USOA accounts associated with the ILEC's retail operations should be excluded as avoided costs: General Support Expense; Depreciation Expense; Total Executive and Planning Expense; Total General and Administrative Expense; Operating Federal Income Taxes; Operating State and Local Income Taxes; Operating Other Taxes; Other Interest Deductions; and Total Returns.

(m) An incumbent local exchange carrier shall not be entitled to offset against the costs it should reasonably avoid in providing the wholesale service any costs it may incur to establish and conduct wholesale operations.

(n) Unless a state commission has determined in accordance with Section XX.203(e), above, that a different avoided cost discount should apply to a particular service or group of service, the same discount level shall apply to all of the incumbent local exchange carrier's services.

Operational Support

(o) ILECs must establish automated, nondiscriminatory operational support mechanisms for the ordering, provisioning, training, maintenance, repair and billing of service by resellers that comply with the requirements of Section XX.208. These systems must enable resellers to provide service on a basis that is comparable to the manner in which the incumbent LEC provides retail service to its own customers.

XX.204 Notice of Changes

(a) Each incumbent local exchange carrier has the affirmative duty to provide public notice to other telecommunications carriers and information service providers of changes in the information necessary for the transmission, routing, and other provision of services using the incumbent local exchange carrier's facilities or network.

(b) The public notice required by paragraph (a) shall include all information relative to all aspects of the incumbent local exchange carrier's network that would affect the ability, or the manner in which another telecommunications carrier or information service provider would interconnect with or use the incumbent local exchange carrier's network for the provision of any service. Such notices shall also include any information on changes to the carrier's network that would affect another carrier's performance.

(c) The public notice required by paragraph (a) shall include, at a minimum, the name of the incumbent local exchange carrier, a name and telephone or fax number of a person to contact for further information, the date(s) the change(s) are scheduled to occur, the location of the change(s), a general description of the technical or other change(s), a general description of the technical or other change(s) that are scheduled to occur, and a brief summary of the effect that the incumbent local exchange carrier expects the change will have on other carriers.

(d) The public notice required by paragraph (a) must be sent by first class mail to each carrier with whom the incumbent local exchange carrier has an agreement relating to interconnection, unbundled network elements or any other agreement relevant to the proposed change. Such notice shall also be sent by first class mail to ATIS and Bellcore.

(e) Each incumbent local exchange carrier shall also either establish its own or a shared address on the Internet where all its public notices can be accessed. Information of the Internet address shall also be provided to ATIS and Bellcore.

(f) The public notice required by paragraph (a) shall be released a reasonable amount of time prior to the proposed change(s) are scheduled to occur. Notice that is mailed six months prior to the proposed change shall be presumed to be reasonable.

(g) Upon request, incumbent local exchange carriers will promptly provide requesting carriers with detailed technical specifications regarding any proposed network change for which notice is required. Charges for such information shall not exceed the reasonable copying charge for such material. In addition, incumbents will make technical support personnel reasonably available to other carriers to respond to technical questions regarding such changes.

XX.205 Collocation

(a) Requesting carriers may order either physical or virtual collocation from an incumbent local exchange carrier in order to accomplish interconnections between the carriers' networks for the purposes of originating, providing or terminating telecommunications services.

(b) Physical collocation means an offering that enables interconnectors:

- (1) To place any network equipment and/or facilities needed to interconnect with the other carriers' networks within or upon the incumbent local exchange carrier's leased or owned premises, regardless of location;
- (2) To use such equipment and/or facilities to connect interconnectors' network facilities to provide any telecommunications service without restriction;
- (3) To enter into or onto the incumbent local exchange carrier's premises to install, maintain, and repair network equipment and/or facilities described in paragraph (a) above; and
- (4) To obtain reasonable amounts of space in or on an incumbent local exchange carrier premises for the equipment

and/or facilities described in paragraph (a) of this section, allocated on a first-come, first-served basis.

(c) Virtual collocation means an offering that enables interconnectors:

(1) To designate or specify equipment needed to interconnect with the other carrier's network to be located within or upon the incumbent local exchange carrier's premises, regardless of location, and dedicated to such interconnector's use.

(2) To use such equipment to provide any telecommunications service; and

(3) To monitor and control their communications channels in such facilities and/or equipment.

(d) Both physical and virtual collocation require an incumbent local exchange carrier to provide:

(1) An interconnection point or points designated in an interconnection agreement at which the interconnector's circuits can enter the incumbent's premises; and

(2) At least two interconnection points at any incumbent local exchange carrier location at which there are at least two entry points used by the incumbent, and space is available to provide the interconnector with two entry points.

(e) The incumbent local exchange carrier shall offer SS7 signaling for tandem switching, as defined in 47 C.F.R. § 69.2(vv), at central offices and at signal transfer points.

(1) The incumbent local exchange carrier shall offer in-band multifrequency signaling at central offices and tandem switches which do not have the capability to offer SS7 signaling.

(2) Incumbent local exchange carriers are required to permit and facilitate unaltered transmission of signaling and signaling information between end users and interconnected carriers, and may not lay a proprietary claim to signaling protocols or elements on information of signaling protocols.

(f) The TSLRIC for physical or virtual collocation shall be the presumptive rate ceiling. States may permit or require collocation rates to be established that are lower than the presumptive rate ceiling established by federal rule, and can approve rates that are higher only by a compelling showing by an incumbent local exchange carrier that the rate meets the TSLRIC standard.

(g) For the purposes of the TSLRIC calculation for physical collocation, the costs of cages, alarms, security arrangements provided due to the presence of the interconnecting carrier (including special guards, construction of separate hallways, rest rooms, modifications to HVAC systems to accommodate separate rooms and hallways, etc.) shall not be included unless the interconnecting carrier has requested such arrangements.

(h) Telecommunications carriers may at their option include provisions in interconnection agreements to create additional collocation arrangements in the future by making a request to the incumbent local exchange carrier, without resorting to further negotiations. In the event this option is exercised, the incumbent local exchange carrier that believes a particular physical collocation to be infeasible for technical reasons or due to space limitations shall apply to the relevant state commission for a waiver of the physical collocation requirement. Application for a waiver must be made within seven days of receipt of a bona fide request for physical collocation. Upon grant of the waiver, the incumbent local exchange carrier shall be required to provide virtual collocation to the requesting carrier.

(i) For a period of six months from the effective date of these rules, nonrecurring costs shall be waived for any telecommunications carrier that currently has in place an expanded interconnection arrangement with an incumbent local exchange carrier pursuant to 47 C.F.R. §§ 64.1401 and 1402, and that converts its virtual collocation arrangement to a physical collocation arrangement by notifying the incumbent local exchange carrier in writing of its desire to convert.

XX.206 NUMBERING ADMINISTRATION

The guidelines for numbering administration are found in Administration of the North American Numbering Plan, FCC 95-283, CC Docket No. 92-237, 11 FCC Rcd 2588 (1995). The guidelines for implementing area code relief are found in Proposed Relief Plan and 630 Numbering Plan Area Code by Ameritech -Illinois, FCC 95-19, IAD File No. 94-102, 10 FCC Rcd 4596 (1995).

XX.207 EXEMPTIONS, SUSPENSIONS, AND MODIFICATIONS

(a) For rural carriers qualifying for an exemption from 47 U.S.C. § 251(c) of the Telecommunications Act of 1996, pursuant to the requirements of 47 U.S.C. § 251(f)(1):

(1) The obligations of incumbent local exchange carriers of 47 U.S.C. § 251(c) (and rules pursuant thereto) shall not apply to a rural telephone company until (i) such company has received a bona fide request for interconnection services or network elements, and (ii) the State commission determines (under subparagraph (a)(3) of this section) that such request is not unduly economically burdensome, is technically feasible, and is consistent with 47 U.S.C. § 254 (other than subsections (b)(7) and (c)(1)(D) thereof).

(2) The party making a bona fide request of a rural telephone company for interconnection, services, or network elements shall submit a notice of its request to the State commission. The State commission shall conduct an inquiry for the purpose of determining whether to terminate the exemption under subparagraph (a)(2). Within 120 days after the State commission receives notice of the request, the State commission shall terminate the exemption if the request is not unduly economically burdensome, is technically feasible, and is consistent with 47 U.S.C. § 254 (other than subsections (b)(7) and (c)(1)(D) thereof). Upon termination of the exemption, a State commission shall establish an implementation schedule for compliance with the request that is consistent in time and manner with Commission regulation.

(3) The exemption provided by this paragraph shall not apply with respect to a request under 47 U.S.C. § 251(c) from a cable operator providing video programming, and seeking to provide any telecommunications service, in the area in which the rural telephone company provides video programming. The limitation contained in this subparagraph shall not apply to a rural telephone company that is providing video programming on February 8, 1996.

(4) A telephone company seeking suspension or modification from the requirements of the Telecommunications Act of 1996 pursuant to 47 U.S.C. § 251(f)(1) bears the burden of demonstrating that the suspension or modification is necessary to avoid a significant adverse impact on consumers or would cause undue economic burden on the local exchange carrier, and is otherwise consistent with the public interest. As part of its determination, the state commission shall consider the rural telephone company's affiliation with other carriers and entry into other telecommunications markets, giving substantial weight to the Act's overriding goal of fostering local competition for all consumers in all areas. Economic burden shall be measured at the corporate holding company level, including all parent, affiliate and subsidiary entities.

(5) Consistent with the pro-competitive policies contained in the Act, grant of any suspension or modification must be narrowly tailored to address the particular harm a state may find.

(b) For the purposes of qualifying to apply for suspension or modification of local competition rules pursuant to 47 U.S.C. § 251(f)(2):

(1) The requirement that local exchange carriers have fewer than 2 percent of the Nation's subscriber lines shall be measured at the holding company level.

(2) A petitioning carrier must demonstrate that the application of 47 U.S.C. § 251(b) and (c) obligations would inflict substantial harm on the carrier and customers in its territories that would not be inflicted on larger local exchange carriers and customers in their territories.

(3) A local exchange carrier with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide may petition a State commission for a suspension or modification of the application of a requirement or requirements of 47 U.S.C. § 251(b) or 47 U.S.C. § 251(c) to telephone exchange service facilities specified in such petition. The State commission may grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification---

(i) is necessary—

(A) to avoid a significant adverse economic impact on users of telecommunications services generally;

(B) to avoid imposing a requirement that is unduly economically burdensome; or

(C) to avoid imposing a requirement that is technically infeasible; and

(ii) is consistent with the public interest, convenience, and necessity

(4) As part of its determination, the state commission shall consider the local exchange carrier's entry into other markets, and shall give substantial weight to the Act's overriding goal of fostering local competition for all carriers in all areas.

(5) The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. Any proceeding under this Section should proceed simultaneously with any arbitration proceeding. Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

(6) Consistent with the pro-competitive policies contained in the Act, grant of any suspension or modification must be narrowly tailored to address the particular harm a state may find.

XX.208 OPERATIONAL SUPPORT SYSTEMS

(a) Incumbent local exchange carriers shall perform ordering, provisioning, maintenance and billing services for requesting carriers at the same level of quality, and within the same time intervals, as they do for their own end-user customers.

(b) As soon as reasonably possible, incumbent local exchange carriers shall implement procedures such that customers can switch local service providers with service intervals and administrative processes no greater or more burdensome than those used by customers to switch interexchange providers. ILECs shall file plans to implement such procedures for both unbundled network elements under XX.202 and resale under Section XX.203 within 3 months of the date these rules take effect.

(c) Incumbent local exchange carriers shall, upon request, provide electronic system-to-system interfaces to its operational support systems. Such electronic interfaces must be provided, at a minimum, for the following categories of transactions:

(1) Ordering. -- the process by which a requesting carrier obtains the information it needs to place an order for an end-user with the incumbent local exchange carrier (e.g., the telephone number the end-user will be assigned).

(2) Provisioning. - the process by which an order is placed and filled, including, for example, the sending of a service order, the provisioning and installation of that order within the incumbent's network and at the customer's premises (if necessary), directory listing, customer information for 911, confirmation of completion by the incumbent, and transmission of any jeopardy or reject notices.

(3) Maintenance/Repair. -- all communications relating to planned and unplanned disruptions in service, including notification by the incumbent local exchange carrier of events that are affecting or will affect the network, reports of difficulties by subscribers, and the dispatch of repair services.

(4) Billing. -- the incumbent's transmission of the customer's usage data to the requesting carrier.

(d) Each incumbent local exchange carrier shall file quarterly reports that separately identify time intervals for its performance of ordering, provisioning and maintenance functions for requesting carriers and for its own end users. These reports will summarize any complaints regarding the incumbent's performance.

(e) Ordering and Provisioning. The following service ordering and provisioning requirements must be met by the incumbent LEC for provisioning of both service resale and unbundled network elements. The incumbent LEC must

also comply with any additional specific requirements that are necessary for unbundled network elements and that are required to meet the test set forth in Section XX 202.(h)(10).

(1) The requesting carrier must have real-time access through automated interfaces to the incumbent local exchange carrier ordering system(s).

(2) The requesting carrier must have real-time access through automated interfaces to the incumbent local exchange carrier provisioning system(s).

(f) All customers must be able to continue to use the existing "611" dialing protocol to access the repair center of their local service provider. The requesting carrier and LEC will implement a mechanism for immediate on-line transfer of any and all misdirected repair calls.

(g) The incumbent LEC shall list requesting carriers' end-users in directory assistance and listing database(s) free of charge. The incumbent shall also pass operator handled and directory assistance (DA) calls to the requesting carrier or provide the requesting carrier branded operator services and DA at the discretion of the requesting carrier.

(h) Data Availability. The following data must be made available by the incumbent LEC:

(1) If requested, the ILEC must be required to provide customer lists to the requesting carrier for the purposes of directory listings.

(2) The ILEC must provide to the requesting carrier information concerning all network points of interconnection.

(3) The ILEC must provide to the requesting carrier a listing of all switch locations, including a list of the services and features available at each switch.

(4) In general, the ILEC must provide data that allows requesting carriers to control fraud.

(5) The ILEC must provide reports showing their installation time frames for their local service customers and for customers of requesting carriers' resold wholesale services.

(6) The ILEC must provide an electronic and paper copy of the Master Street Address Guide or its equivalent, including all updates thereto.

(i) Maintenance. The requesting carrier must have read and write access to the incumbent LEC maintenance and trouble report system(s) including the following systems and/or functionality:

(1) The requesting carrier must have read and write access through an electronic interface to the incumbent LEC trouble reporting and dispatch system(s). Access must be real-time and on a first come first serve basis

(2) The requesting carrier must have read and write access through an electronic interface to the incumbent LEC maintenance and trouble report system(s) that will provide status on and confirmation of trouble tickets.

(3) The incumbent LEC must initiate exception reporting which communicates both planned and unplanned outages and restorals to the requesting carrier.

(j) The billing of wholesale services, network elements and interconnection services to requesting carriers by incumbent local telephone companies should conform to carrier-to-carrier billing practices adopted through industry fora.

(k) End User and Inter-Carrier Billing. Where requesting carriers are dependent upon usage information created by incumbent LEC systems (for instance, with the resale of wholesale services or the provision of services using unbundled network elements), the incumbent LECs will provide all information necessary for the requesting carrier to bill for local exchange and exchange access services.

(1) End User Billing

The following end-user billing requirements must be met by the incumbent LEC:

(i) The incumbent LEC must provide a daily transmission of local usage to the requesting carrier using the EMR industry standard

(ii) All incumbent LECs that participate in the Bellcore CMDS in- and out-collect transport and settlement process must, upon request, agree to sponsor any requesting carrier for participation in that process. Incumbent LECs shall cooperate in good faith with any third party administrator that may be designated to operate the clearing house process currently performed by CMDS.

(iii) All local exchange carriers provide the necessary information needed for billing of casual usage. This includes the billing name and address (BNA) associated with the casual usage

(iv) The incumbent LEC must return EMI records to IXCs with the requesting carrier disconnect rejection code along with the Operating Company Number (OCN) of the associated ANI.

(2) Carrier Access Billing

(i) Incumbent local telephone companies shall provide requesting carriers providing service using unbundled network elements with the usage information necessary for such carriers to render bills for exchange access and interconnection

(ii) Incumbent local telephone companies shall, where systems permit, work cooperatively with requesting carriers to issue carrier access bills using the multiple tariff, single bill option

XX.209 Pricing

(a) Incumbent local exchange carrier prices for interconnection and network elements under 47 U.S.C. § 252(d)(1) and for transport and termination under 47 U.S.C. § 252(d)(2) must be set at TSLRIC.

(b) Retail services must be made available at wholesale rates set in accordance with the requirements of Section XX.203 of these rules.

(c) Volume and term discounts must be cost-based. Discounts may consider aggregation of revenues from the purchase of unbundled network elements and resold services. A volume or term discount that is practically available only to an ILEC or an ILEC affiliate shall be prohibited.

(d) TSLRIC cost studies must be filed as provided in Section XX.200(e) of these rules.

(e) TSLRIC pricing shall be performed according to the following methodology:

(1) Definitions

(i) Capital Costs: The recurring costs that result from investments in network facilities, consisting of depreciation, cost of money, and income taxes.

(ii) Common Costs: Fixed costs incurred in the operation of the ILEC as a firm and are not related to the provision of any single service or group of services. Common costs of the firm are avoidable only if the whole firm ceases to exist.

(iii) Cost Driver: A specific condition, under which a network element is provided, whose change causes significant and systematic changes in the cost of providing a network element.

(iv) Least-cost Technology: The technology that would be chosen today as the economically most efficient choice.

(v) Long Run: A time period long enough to allow all of the ILEC's carrier-to-carrier assets to be replaced.

(vi) Variable Overhead Costs: Costs not attributable to the production of any particular service or group of services. These vary with the size of the firm but not necessarily with the volume produced of any network element. A portion of these costs may be avoided if a network element is not produced.

(vii) Shared Costs. Costs that are incurred in the production of a specific subset of the firm's products and are not avoided by the elimination of less than all members of this subset

(2) Methodology

(i) General Principles

(A) As a basis for pricing of unbundled network elements, the Total Service Long Run Incremental Cost (TSLRIC) shall be determined for each network element.

(B) TSLRIC shall be calculated as the difference between the ILEC's total cost given the production of a function and the ILEC's total cost when the function is not produced, where the ILEC's total costs are determined on a forward-looking basis, using the least cost technology available for the production of the function.

(C) The relevant increment of output assumed in the estimation of investments and expenses shall be the level of output necessary to satisfy current demand levels for the interconnection provided or for each unbundled network element.

(ii) Estimation of Investment

(A) Investments shall be estimated based on the least-cost technology available today for each network element.

(B) The capacity of each network element shall be sized to accommodate the total current demand for each network element, as determined using publicly-available usage statistics.

(C) The estimation of investments may assume that switch nodes will be located as they are today; however, no existing plant will be assumed to exist. This is effectively a conservative estimate of these costs.

(D) To the extent that certain facilities or components of facilities are placed to support multiple network elements, such costs shall be recovered equally from all network elements that jointly caused the facility to be placed, on the basis of each network element's proportionate use of the capacity of the jointly-used facility.

(iii) Estimation of Capital Cost.

(A) The depreciation rate used in estimating capital costs shall be the most recent FCC-approved depreciation rate for each category of plant.

(B) Capital costs shall be estimated based on an assumed 10% overall rate of return and an ILEC's existing capital structure.

(C) Capital costs shall be estimated based on an ILEC's federal and state combined income tax rate in the state for which the estimation is done.

(D) Capital costs for each category of plant shall be levelized over the assumed service life of the plant category.

(iv) Estimation of Operating Expenses

(A) Wherever estimates of forward-looking incremental operating expenses are available, these estimates should be used in preference to embedded expense data.

(B) Where applicable, network-related operating expenses (e.g., plant specific) may be estimated based on the relationship between operating expenses and investment in embedded cost data. Ideally, the relationship should be based on efficient investments and expenses.

(C) Non-plant specific and non-network operating expenses may be estimated based relationship between expenses and lines in service, or based on some other meaningful relationship. The nature of the relationship and the reason that the relationship is meaningful must be explicitly documented.

(D) To the extent that certain expenses are incurred to support multiple functions, such network element's expenses shall be recovered equally from all network elements that jointly caused the expense to be incurred, on the basis of each function's proportionate use of the capacity of the joint-used facility, or on some other reasonable basis.

(E) Variable Overhead. A reasonable markup over the directly measured TSLRIC expenses and capital costs may be included to account for variable overhead costs, which are properly part of the full TSLRIC of a network element. This markup shall not recover any of the common costs of the ILEC.

Subpart D – NEGOTIATIONS, ARBITRATIONS, AND APPROVAL OF AGREEMENTS

XX.300 General

These rules apply to all aspects of any request for interconnection arrangements made pursuant to 47 U.S.C. §§ 251, 251 that has not been initiated by the date the rules become effective. As to any requests made prior to that date, the rules apply to all events (i.e., requests for mediation, appointment of a state arbitrator, state agency review, and similar discrete activities) that have not yet taken place as of the effective date of these rules, as may be applicable.

XX.301 PROCEDURES FOR NEGOTIATION OF AGREEMENTS UNDER 47 U.S.C. §§ 251, 252

(a) Any carrier seeking interconnection arrangements (“requesting carrier”) with an incumbent local exchange carrier pursuant to 47 U.S.C. §§ 251, 251 shall submit a request in writing to the ILEC

(b) Upon receipt of a request made pursuant to paragraph (a), the ILEC shall respond to the request in writing within fifteen business days.

(c) Upon receipt of the ILECs’ response, the requesting carrier may accept the response as submitted or seek negotiation. Negotiations must commence within fifteen business days of any such request unless a longer period is agreed to by the requesting carrier.

(d) The requesting carrier and the ILEC have a duty to negotiate in good faith in any negotiations involving the requirements of 47 U.S.C. § 251(c).

(e) A copy of any agreement reached pursuant to a request made under paragraph (a), whether as the result of the requesting carrier’s acceptance of the ILEC’s response, or the result of negotiation or mediation, must be submitted to the relevant state commission(s) for approval within five business days of the execution of the agreement. A copy must also be filed with the FCC.

(f) The state commission, or the FCC if appropriate, shall put the agreement on public notice and shall permit participation in the approval process by the parties and any other carriers

XX.302 Mediation of Agreements

At any time during any negotiations commenced pursuant to Section XX.301 of these rules, either party may petition a state commission, or that commission's designated staff or appointed mediator, to participate in the negotiations and to mediate any differences among the parties.

XX.303 Arbitration of Agreements

(a) At any time from the 135th day, to and including the 160th day after an ILEC receives a request pursuant to Section XX.301 of these rules, any party to the negotiations relating to that request may petition a state commission to arbitrate any open issues. Such arbitration shall comply with the requirements of 47 U.S.C. § 252 and any rules not inconsistent with the Telecommunications Act of 1996 which the state commission adopts. The state commission shall arbitrate all open issues, including, but not limited to, issues directly related to the duties of carriers enumerated in 47 U.S.C. § 251. All arbitrated agreements must be submitted to the state commission for approval within five days of the conclusion of the arbitration, and also be copied to the Commission.

(b) The state commission, or the FCC if appropriate, shall permit participation in the arbitration and approval process by the parties and any other carriers.

XX.304 Filing of Existing Interconnection Agreements

(a) Any interconnection agreement between an incumbent local exchange carrier and any telecommunications carrier including all noncompeting local exchange carriers in effect on February 8, 1996, or which is subsequently agreed to but which has not been submitted for state approval ("existing agreements"), shall be publicly filed with the relevant state commission for approval pursuant to 47 U.S.C. § 252(e) and Section XX.304 of the rules within fifteen business days after these regulations become effective.

(b) The state commission shall determine to approve or reject the agreement within 90 days.

(c) The state commission, or the FCC if appropriate, shall put the agreement on public notice and shall permit participation in the approval process by the parties to the agreement and any other affected carriers.

(d) Unless and until rejected by the state commission, such agreement may be subscribed to by any telecommunications carrier

XX.305 State Commission Failure to Act

(a) A state commission is deemed to have failed to act pursuant to 47 U.S.C. § 252(e)(5) if it does not meet the time requirements for arbitration and review of agreements or statements of generally available terms and conditions set forth in 47 U.S.C. § 252(b), (d), (f).

(b) Any agreement or statement of generally available terms and conditions that automatically takes effect because of a state's failure to act shall not constitute a finding of compliance with the requirements of 47 U.S.C. § 251 because of such effectiveness.

(c) Within 30 days of receipt of a petition, the FCC shall issue an order preempting the state commission's jurisdiction on the relevant proceeding or matter based on a failure to act pursuant to 47 U.S.C. § 252(e)(5). The FCC shall reach a decision on the matter of arbitrating a dispute, or on whether to approve an agreement or statement of general terms and conditions, within 90 days of its preemption order.

(d) In arbitrating disputes because of a state's failure to act, the FCC shall:

- (1) Require the party seeking arbitration to file a petition with supporting information;
- (2) Allow the non-petitioning party or parties to respond;
- (3) Obtain additional information and discovery as it deems necessary;
- (4) Apply to the maximum extent practicable the rules and requirements of 47 U.S.C. § 252(b)(4)(5); and
- (5) Issue a decision resolving the arbitration based on full consideration of the record and the standards set forth in 47 U.S.C. § 252(c).

(e) In reviewing an agreement or statement of general terms and conditions under this regulation, the FCC shall apply the relevant standards set forth in subsections 47 U.S.C. § 252(e)(2)

XX.306 Availability of Agreements to Other Telecommunications Carriers

(a) Once an interconnection agreement is approved by a state commission or the FCC pursuant to 47 U.S.C. § 252, or has otherwise been allowed to take effect, or is in effect, an incumbent local exchange carrier which is a party to the agreement has an obligation to make available upon the same terms and conditions to any requesting carrier any or all of the following parts of the agreement on an unbundled basis, and is bound to perform its obligations regarding such parts as if the requesting carrier were a party to the original approved agreement:

- (1) any portion of the agreement governed by individual subsections or paragraphs of 47 U.S.C. § 251, or
- (2) network elements

(b) An incumbent local exchange carrier that is a party to an agreement approved pursuant to 47 U.S.C. § 252 shall be obligated to make it or any unbundled part pursuant to paragraph (a) above available to a requesting carrier in any state in which the incumbent local exchange carrier provides telephone exchange service.

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